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Docket No.: 50179-096

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of

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Group Art Unit: 1638

David J. DALL

Examiner: ASHWIN D. MEHTA

Serial No.: 09/936,216

Filed: January 23, 2002

For: PLANTS AND FEED BAITS FOR CONTROLLING DAMAGE FROM  
FEEDING INSECTS

RESPONSE TO NOTICE TO COMPLY

Hon. Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

This is in response to the Notice to Comply With Requirements For Patent  
Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence  
Disclosures mailed September 17, 2002 and setting forth a 30 day period for response.  
Accordingly, this response is due on or before October 17, 2002.

Enclosed herewith is a copy of the Notice to Comply and a computer readable  
form of the Sequence Listing. Please enter the Sequence Listing in the present  
application.

The content of the paper and computer readable copies are the same. The  
computer readable form of the Sequence listing does not include new matter.



Accordingly, it is respectfully submitted that the present application is in condition for examination on the merits.


Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicant has inadvertently overlooked the need for a petition for extension of time. The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0417.

Respectfully submitted,

MCDERMOTT, WILL & EMERY

Date: Oct. 17, 2002

By:

  
Judith L. Toffenetti  
Reg. no. 39,048

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Washington, DC 20005-3096  
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,216	01/23/2002	David James Dall	50179-096	2568



20277 7590 09/17/2002  
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600 13TH STREET, N.W.  
WASHINGTON, DC 20005-3096

EXAMINER

MEHTA, ASHWIN D

ART UNIT	PAPER NUMBER
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1638

DATE MAILED: 09/17/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

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## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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09/036,216

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50179-096



EXAMINER

Mehta

ART UNIT

PAPER

1638

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## Commissioner of Patents

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. § 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 C.F.R. §§ 1.821-1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. Applicant must comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825) before the application can be examined under 35 U.S.C. §§ 131 and 132.

APPLICANT IS GIVEN 30 days FROM THE DATE OF THIS LETTER WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 C.F.R. §§ 1.821-1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 C.F.R. § 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 C.F.R. § 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Direct the response to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the response.

Any inquiry concerning this communication from the examiner should be directed to Ashwin Mehta, whose telephone number is (703) 306-4540. The examiner can normally be reached on Mondays-Thursdays and alternate Fridays from 8:00AM-5:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached at (703) 306-3218. The fax numbers for the organization where this application or proceeding is assigned are (703) 308-4242 and (703) 872-9306 for regular communications and (703) 872-9307 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

A.M.

  
ASHWIN D. MEHTA, PH.D  
PATENT EXAMINER

OCT 22 2002

TECH CENTER 1600/2900

**Notice to Comply**

Application No.

09/936,216

Applicant(s)

DAZZ

Examiner

Mehta

Art Unit

1638

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- ☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☒ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☐ 7. Other:

**Applicant Must Provide:**

- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☐ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

PatentIn Software Program Support

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**PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR REPLY**

